

FILED  
3:00 P.M. OCLOCK

FEB 25 2014

JANEL TAYLOR  
CIRCUIT AND COUNTY CLERK  
PRAIRIE CO., SO. DISTRICT  
*Janel Taylor*

**IN THE CIRCUIT COURT OF PRAIRIE COUNTY, ARKANSAS**

**DAVID KAY**

**PLAINTIFF**

v.

**CASE NO. CV-2014-004**

**CORY McMILLAN and  
RABBIT RIVER TRANSPORT II,  
d/b/a NORTHERN EQUIPMENT LEASING**

**DEFENDANTS**

**COMPLAINT**

Comes now the Plaintiff, David Kay, by and through his attorneys, Gary Holt & Associates, P.A., and for his Complaint against the Defendants, Cory McMillan and Rabbit River Transport II, d/b/a Northern Equipment Leasing (herein after "Northern Equipment"), alleges and states:

1. Plaintiff is an individual resident of Oklahoma. Defendant Dwight Robb is a resident of Michigan. Defendant Northern Equipment is a foreign corporation, doing business in the state of Arkansas. The events giving rise to this lawsuit occurred in Prairie County, Arkansas. Jurisdiction is proper in this Court. Venue is proper in Prairie County, Arkansas.

2. On or about May 13, 2012, at approximately 7:00 p.m., Plaintiff David Kay was operating an automobile in a westerly direction on Interstate 40.

At a point located approximately mile marker 203.70 located approximately 1.48 miles east of the city of Biscoe, Arkansas, Plaintiff David Kay slowed his vehicle behind another vehicle, operated by Michael Moore, who was also slowing. Said vehicles were in a construction zone. At said point and time, the Defendant, Cory McMillan, was operating a tractor trailer in the course and scope of his employment with Northern Equipment, also in a westerly direction on said Interstate, behind Plaintiff. Defendant Cory McMillan failed to slow for Plaintiff's vehicle, and struck the rear. As a result of the negligence of the Defendant, Cory McMillan, for which Defendant Northern Equipment is vicariously liable, Plaintiff suffered damages more specifically described herein after.

4. Defendant Cory McMillan was guilty of negligence, for which the Defendant Northern Equipment is vicariously liable. Said acts of negligence include, but are not limited to, the following:

- a. Failing to keep a proper lookout;
- b. Failing to keep the vehicle he was driving under proper control;
- c. Driving at a speed greater than was reasonable and prudent under the circumstances;
- d. Failure to yield the right of way to the forward vehicle;
- e. Failure to slow his vehicle in a construction zone; and

f. Otherwise failing to exercise ordinary care under the circumstances.

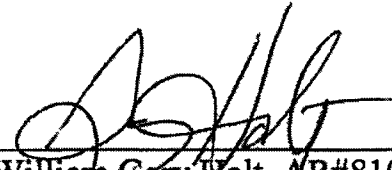
5. As a result of the negligence and carelessness set out herein above, Plaintiff, David Kay, has suffered painful and permanent personal injuries, incurred expenses for medical care, treatment and services in the past and is reasonably certain to require medical care, treatment, and services in the future, underwent pain, suffering and mental anguish in the past and is reasonably certain to experience pain, suffering and mental anguish in the future, suffered a loss of earnings and working time in the past, and is reasonably certain to sustain a loss of future earnings and working time.

**WHEREFORE**, Plaintiff David Kay prays for a judgment against the Defendants, Cory McMillan and Northern Equipment, jointly and severally, in an amount adequate to compensate him for the injuries and damages he has sustained, said amount being in excess of that required for Federal Court jurisdiction in diversity of citizenship cases; for costs; for pre- and post-judgment interest; and for any and all other just and proper relief to which he may be entitled. Plaintiff prays for a jury trial.

Respectfully submitted,

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BY:

  
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*Attorney for Plaintiff*